

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

MELNOR, INC.,

Plaintiff,

v.

SKR RESOURCES, INC., and
CHRISTOPHER COREY,

Defendants.

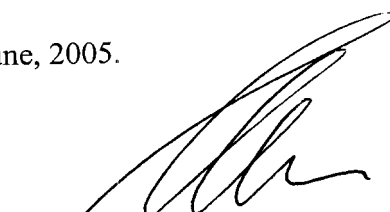
Civil Action No. 5:04CV00113

**MEMORANDUM OPINION AND
ORDER**

By: Samuel G. Wilson
United States District Judge

This matter is before the court on the motion of Defendant Christopher Corey under Federal Rule of Procedure 55 to set aside the Clerk's March 28, 2005, entry of default. In a sworn affidavit, Corey claims that he was never properly served process and that he had no notice of the pending litigation against him until May 2005. Melnor claims that the process server served George Strangos, a New Jersey employee of Corey's co-defendant, SKR, after he claimed that he was authorized to accept service on Corey's behalf. Melnor has presented no evidence suggesting that Corey actually received the process through any channel before May 2005. The court finds that proper service under Federal Rule of Procedure 4 was never accomplished and that Corey first learned of the suit in May 2005. Therefore, there is "good cause" to set aside the default. Fed. R. Civ. P. 55. Accordingly, it is hereby **ORDERED** and **ADJUDGED** that Corey's motion to set aside the default is **GRANTED**.

ENTER: This 17th day of June, 2005.


UNITED STATES DISTRICT JUDGE